IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI JUSTICE B.PRAKASH RAO

-

WRIT PETITION No. 9558 of 2004

Between:

Kalyanapu Subba Rao, S/o Nagabhushanam,
R/o Tadigadapa Village, Penamalur Mandal, Krishna District.

..... PETITIONER

AND

The Executive Officer, Sri Sitharama Swamy Temple,
Tadigadapa, Penamaluru Mandal, Krishna District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction especially in the nature of Writ of Mandamus, declaring that the impugned notice dated 19-5-2004 issued by the Executive Officer, Sri Sitha Rama Swamy Temple, Tadigadapa village, Penamaluru Mandal, Krishna District cancelling with immediate effect the lease hold rights of the petitioner in respect of the lands of (1) Ac. 2.81 cents in S.No. 106; (2) Ac. 4.92 cents in S.No. 134; and (3) Ac. 4.87 cents in S.No. 135 of Tadigadapa village and directing him to hand over the possession of the lands within 30 days of receipt of the notice is illegal, without jurisdiction and invalid and direct the respondent not to evict the petitioner from the said lands.

Counsel for the Petitioner: MR.K.HARINATH

Counsel for the Respondent : Smt..N.INDRANI

The Court made the following :

-

-

-

-

-

ORDER:

-

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

The petitioner who claims to be lessee of the lands in Survey Nos. 106, 134, 135 situated at Tadigadapa village in Penumaluru Mandal filed this writ petition inter alia seeking writ of mandamus challenging the impugned notice dated 19-5-2004, wherein the respondent directed the petitioner to hand over possession of the lands in question.

The main grievance of the petitioner is that having regard to the subsisting of lease hold rights for the agricultural year 2004-2005, the question of handing over the possession of lands do not arise and the same is illegal and unsustainable. Hence, the writ petition.

In the counter affidavit filed on behalf of the respondent, it is admitted that the petitioner is holding lease for the agricultural year 2004-2005.

Having considered the submissions made and on perusal of the material, it is seen that in view of the subsistence of lease in favour of the petitioner for the agricultural year 2004-2005, the very impugned notice is totally unsustainable and the same is liable to be set aside.

In view of the same, this writ petition is allowed and the impugned order passed by the respondent is set aside. It is however, open to the respondent to take appropriate action as contemplated under the law, after the expiry of lease period. No costs.

_____

Kvrk/DA 20-08-2004

To

1. The Executive Officer, Sri Sitharama Swamy Temple,
   Tadigadapa, Penamaluru Mandal, Krishna District.

2. Two CD copies.